



CV 02-2399 #1

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY  
BY

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HEATHER L. STODDARD,  
  
Plaintiff,

v

THE CITY OF SEATTLE,  
a municipal corporation,

and

JOHN DOE I, in his capacity as a  
police officer for the City of Seattle,  
and as an individual,

and

JOHN DOE II, in his capacity as a  
police officer for the City of Seattle,  
and as an individual,

Defendants

CV02 2399C

COMPLAINT FOR DAMAGES

COMPLAINT FOR DAMAGES - 1

**MUENSTER & KOENIG**  
JOHN R. MUENSTER, INC., P.S.  
999 THIRD AVE., SUITE 4100  
SEATTLE, WASHINGTON 98104  
(206) 467-7500  
FAX (206) 467-0101

308627 Sliss

INTRODUCTION

1           This is a civil action seeking damages against the above-named defendants  
2  
3           The civil claims include a common law tort cause of action, statutory causes of action, and  
4           offenses committed under color of law resulting in a deprivation of rights secured by the  
5           Constitution and laws of the United States of America  
6  
7

JURISDICTION AND VENUE

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10           2       This Court has personal and subject matter jurisdiction over plaintiff's  
11           federal civil rights claims under Title 42, United States Code, § 1983, and Title 28, United  
12           States Code, §§ 1331 and 1343(a)(3).  
13

14           3       This Court has pendent jurisdiction over plaintiff's state law claim and over  
15           defendants as to said claim, pursuant to Title 28, United States Code, § 1367 (Judicial  
16           Improvements Act of 1990), Public Law No 101-650, 104 Stat. 5089 (1990)  
17

18           4       The acts and omissions complained of herein occurred in King County,  
19           Washington, and the defendants are residents and citizens of the state of Washington  
20

21           5       Plaintiff is a resident and citizen of the state of Washington  
22

23           6       Venue in this Court is proper pursuant to Title 28, United States Code, §  
24           1391  
25  
26  
27

PARTIES

7 Plaintiff Heather L Stoddard is a citizen of the United States and a citizen  
and resident of the state of Washington Defendant City of Seattle is sued directly under  
Title 42, United States Code, § 1983 as to the federal causes of action, and under the  
doctrine of *respondeat superior* as to the state law cause of action

8 At all times material to this complaint, defendant John Doe I was a police  
officer employed by defendant City of Seattle At all times material to this complaint,  
defendant John Doe I was an agent and employee of defendant City of Seattle, and was  
acting within the scope of his employment with the City of Seattle, under color of the laws  
of the State of Washington

9 Defendant John Doe I is sued in his individual capacity and in his official  
capacity as an agent and employee of the City of Seattle

10 At all times material to this complaint, defendant John Doe II was a police  
officer employed by defendant City of Seattle At all times material to this complaint,  
defendant John Doe II was an agent and employee of defendant City of Seattle, and was  
acting within the scope of his employment with the City of Seattle, under color of the laws  
of the State of Washington

11 Defendant John Doe II is sued in his individual capacity and in his official  
capacity as an agent and employee of the City of Seattle

FACTUAL ALLEGATIONS

12 During the week of November 29-December 3, 1999, the World Trade Organization (WTO) held meetings in downtown Seattle

13. Thousands of people gathered in the streets of Seattle to peacefully protest the policies of the WTO, contending that such policies are in conflict with American laws protecting the environment, labor, and human rights

14 During the WTO week, police tear-gassed, pepper-sprayed and/or arrested numerous peaceful protestors, innocent bystanders, and members of the media

15 On November 30, 1999, defendant City of Seattle sent officers of the Seattle police department to the Capitol Hill area of Seattle The officers patrolled the streets, dressed in riot gear

16 Defendant City of Seattle provided its police officers with what is believed to be pepper spray to use against citizens in the Capitol Hill Seattle area

17 Pepper spray is a dangerous chemical weapon

18 At approximately 9:00 p m. in the evening on November 30, 1999, plaintiff Heather Stoddard, a resident of Capitol Hill, walked north on Broadway Avenue to the southwest corner of Broadway and Republican A line of Seattle police officers in riot gear blocked the street

19 Plaintiff asked one of the officers to tell her why they were in her neighborhood Plaintiff was unarmed and posed no threat to the officers

1  
2           20.     In response to plaintiff's question, and without warning, defendant John  
3 Doe I hit plaintiff hard in the stomach with a billy club and fired a chemical spray,  
4 believed to be pepper spray, at plaintiff's left eye

5           21     Plaintiff experienced immediate, intense pain. She crossed the street to the  
6 southeast corner of Broadway and Republican, holding her left eye.

7  
8           22     Plaintiff asked another group of officers to please let her speak to the officer  
9 in charge. No verbal response was given. Without warning, defendant John Doe II fired  
10 chemical spray, believed to be pepper spray, at plaintiff's right eye. Plaintiff collapsed  
11 from the pain and was helped by bystanders on the street. Plaintiff subsequently received  
12 telephone medical assistance from Harborview Medical Center and poison control

13  
14           23     Neither defendants John Doe I and II nor any of the other police officers  
15 present provided or attempted to provide any first aid to plaintiff

16           24     Defendant City of Seattle failed to properly supervise defendants John Doe  
17 I and II

18           25     Defendant City of Seattle failed to train defendants John Doe I and II not  
19 to fire chemical weapons at an unarmed person who merely asked questions of the officers

20           26     Defendant City of Seattle failed to provide its officers deployed on  
21 December 1, 1999, with adequate food, water and opportunities for rest

22           27     As a result of the acts and omissions of defendants, plaintiff suffered  
23 personal injuries including, but not limited to, bodily injury, pain and suffering, emotional  
24 distress, and other consequential damages  
25  
26

FIRST CAUSE OF ACTION  
VIOLATION OF THE FIRST AMENDMENT

28 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 27

29 The acts and omissions of defendants herein were done under color of state law, custom or usage

30 Plaintiff Heather Stoddard had a federally-protected right, under the freedom of speech and assembly provisions of the First Amendment to the United States Constitution, to be present in her Capitol Hill neighborhood and to ask the referenced question and to ask to speak with a police supervisor during the WTO-related protests and gatherings

31 The acts and omissions of defendants herein proximately caused the deprivation of the First Amendment rights of plaintiff

32 As a proximate result of the acts and omissions of defendants and deprivation of plaintiff's First Amendment rights, plaintiff suffered personal injuries as set forth hereinabove

SECOND CAUSE OF ACTION  
VIOLATION OF THE FOURTH AMENDMENT PROHIBITION  
AGAINST UNREASONABLE SEIZURES

33 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 32.

34 The acts and omissions of defendants herein were done under color of state law, custom or usage

35 Heather Stoddard was seized, for purposes of the Fourth Amendment to the United States Constitution, by the acts and omissions of defendants set forth herein

36 Heather Stoddard had a federally-protected right, under the Fourth Amendment, not to be subjected to an unreasonable seizure

37 The acts and omissions of defendants herein proximately caused the deprivation of the Fourth Amendment rights of Heather Stoddard

38 As a proximate result of the acts and omissions of defendants and deprivation of plaintiff's Fourth Amendment rights, plaintiff suffered personal injuries as set forth hereinabove

THIRD CAUSE OF ACTION  
VIOLATION OF FOURTH AMENDMENT  
PROHIBITION AGAINST THE USE OF UNREASONABLE FORCE

39 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 38

1  
2           40     The acts and omissions of defendants herein were done under color of state  
3 law, custom or usage

4           41     Heather Stoddard was seized, for purposes of the Fourth Amendment to the  
5 United States Constitution, by the acts and omissions of defendants set forth herein

6           42     Heather Stoddard had a federally-protected right, under the Fourth  
7 Amendment, not to be subjected to the use of unreasonable force against her person

8           43.     As a proximate result of the acts and omissions of defendants and the  
9 deprivation of plaintiff's Fourth Amendment rights, plaintiff suffered personal injuries as  
10 set forth hereinabove  
11

12  
13                   FOURTH CAUSE OF ACTION  
14                   VIOLATION OF THE FOURTEENTH  
15                   AMENDMENT DUE PROCESS CLAUSE

16           44     Plaintiff hereby incorporates and realleges as if fully set forth herein each  
17 and every allegation of paragraphs 1 through 43.

18           45     The acts and omissions of defendants herein were performed under color  
19 of state law, custom or usage

20           46     Heather Stoddard had federally-protected rights, under the Due Process  
21 Clause of the Fourteenth Amendment to the United States Constitution, to remain in a  
22 public place of her choice and the right to move from one place to another, in order to  
23 observe the actions of the police and the citizens in her Capitol Hill neighborhood  
24  
25  
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1  
2           47     The acts and omissions of defendants herein proximately caused the  
3 deprivation of plaintiff's Fourteenth Amendment rights

4           48.     As a proximate result of the acts and omissions of defendants, plaintiff  
5 suffered personal injuries as set forth hereinabove.  
6

7                               FIFTH CAUSE OF ACTION  
8                               MUNICIPAL LIABILITY OF THE CITY OF SEATTLE

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10           49     Plaintiff hereby incorporates and realleges as if fully set forth herein each  
11 and every allegation of paragraphs 1 through 48.

12           50     At all times material herein, defendant City of Seattle, by and through its  
13 chief of police, Norman Stamper, had in effect certain explicit and *de facto* policies,  
14 practices and customs which were applied to the treatment of civilians in Seattle during the  
15 WTO meetings, including the use of chemical weapons against innocent civilians such as  
16 plaintiff Heather Stoddard  
17

18           51     For purposes of the incident described herein, it was the policy, custom and  
19 practice of the City of Seattle to utilize unreasonable force in violation of the First, Fourth  
20 and Fourteenth Amendment rights of the plaintiff, set forth hereinabove  
21

22           52.     It was further the policy of the City of Seattle, by and through its chief of  
23 police, to approve, acquiesce, condone and ratify the use of unreasonable force in violation  
24 of the First, Fourth and Fourteenth Amendment rights of the plaintiff in the incident  
25 described hereinabove  
26

1  
2           53     For purposes of liability for said policies, practices and/or customs, Norman  
3 Stamper was the authorized policy-maker on police matters, and his decisions, explicit and  
4 *de facto*, were and are binding on defendant City of Seattle

5           54     The policy, practice and custom of approving, acquiescing in, condoning  
6 and/or ratifying the use of unreasonable force in violation of the First, Fourth and  
7 Fourteenth Amendment rights of the plaintiff in the incident described herein was a  
8 deliberate choice by defendant City of Seattle, by and through its chief of police  
9

10          55     These policies, practices and customs were maintained with deliberate,  
11 reckless and/or callous indifference to the constitutional rights of the plaintiff as set forth  
12 hereinabove  
13

14          56     The above-described policies, practices and customs of defendant City of  
15 Seattle proximately caused the deprivation of the First, Fourth and Fourteenth Amendment  
16 rights of the plaintiff

17          57     As a proximate result of the above-described policies, practices and customs  
18 of defendant City of Seattle, and as a result of the deprivation of plaintiff's First, Fourth  
19 and Fourteenth Amendment rights, plaintiff suffered personal injuries as set forth  
20 hereinabove  
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22          58     At all times material herein, defendant City of Seattle had a duty, under the  
23 United States Constitution, to properly supervise its police officers.  
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2           59     At all times material herein, defendant City of Seattle had a duty, under the  
3 Fourth Amendment to the United States Constitution, to train its police officers not to  
4 attack innocent civilians with chemical weapons, including pepper spray

5           60     Defendant City of Seattle failed to properly supervise defendants John Joe  
6 I and II

7           61     Defendant City of Seattle failed to properly train defendants John Doe I and  
8 II

9           62     The above-described failures to supervise and to train were maintained with  
10 deliberate, reckless and/or callous indifference to the constitutional rights of the plaintiff  
11 as set forth hereinabove  
12

13           63     The above-described failures by defendant City of Seattle to properly  
14 supervise and to properly train defendants John Doe I and II proximately caused the  
15 deprivation of the constitutional rights of the plaintiff as set forth hereinabove  
16

17           64     As a proximate result of the failure of defendant City of Seattle to properly  
18 supervise and train, and as a result of the deprivation of plaintiff's constitutional rights,  
19 plaintiff suffered personal injuries as set forth hereinabove.  
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22                   SIXTH CAUSE OF ACTION  
23                   NEGLIGENCE

24           65     Plaintiff hereby incorporates and realleges as if fully set forth herein each  
25 and every allegation of paragraphs 1 through 64  
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2           66     Defendants had a general affirmative duty toward the public, and had a  
3 special affirmative duty toward the plaintiffs to refrain from causing injury to plaintiff  
4 Heather Stoddard, in accordance with the applicable standard of care required of police  
5 and other law enforcement officers

6           67     The acts and/or omissions of defendants, and each of them, were a breach  
7 of the duty of care defendants, and each of them, owed to the plaintiff Heather Stoddard  
8

9           68     Defendant City of Seattle is liable for the actions of defendants John Doe  
10 I and II under the doctrine of *respondent superior*

11           69     As a direct, proximate and foreseeable result of the wrongful actions  
12 described hereinabove, plaintiff has been damaged in an amount in excess of the minimum  
13 jurisdiction of this Court  
14

15  
16                               PUNITIVE DAMAGES  
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18           70     Plaintiff hereby incorporates and realleges as if fully set forth herein each  
19 and every allegation of paragraphs 1 through 68

20           71     The acts and omissions of defendants John Doe I and II herein were  
21 motivated by evil motive or intent, or involved reckless or callous indifference to the  
22 constitutional rights of the plaintiff as set forth hereinabove.  
23

24           72     Defendant City of Seattle should indemnify defendants John Doe I and II  
25 for any damages awarded against him/them at the trial of this action, including punitive  
26 damages  
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1  
2 73. Defendant City of Seattle is responsible for the fault of the defendants John  
3 Doe I and II because defendants John Doe I and II were acting as agents or servants of the  
4 City. Defendant City of Seattle is liable for all damages awarded against defendants John  
5 Doe I and II, including punitive damages RCW 4 22 070(1)(a)

6  
7 74 Since plaintiff Heather Stoddard is a fault-free plaintiff, defendant City of  
8 Seattle is jointly and severally liable for all damages awarded, including punitive damages  
9 RCW 4 22 070(1)(b)

10  
11 PRAYER FOR RELIEF

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13 WHEREFORE, plaintiff prays for relief as follows

14 Compensatory Damages The defendants should be required to pay compensatory  
15 damages in an amount to be proven at trial

16 Punitive Damages The defendants should be required to pay punitive damages in  
17 an amount to be proven at trial pursuant to Title 42, United States Code, § 1988, RCW  
18 4 22 070(1)(a), and RCW 4 22.070(1)(b)

19 Attorneys' Fees The defendants should be required to pay the plaintiff's reasonable  
20 attorneys' fees and costs pursuant to Title 42, United States Code, § 1988  
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1  
2       Other Relief The Court should grant the plaintiff such other and further relief as  
3 the Court deems just and equitable

4       DATED this the 22<sup>nd</sup> day of November, 2002

5                               Respectfully submitted,

6                               MUNSTER & KOENIG

7  
8  
9       By: 

10       JOHN R. MUNSTER

11       WSBA No. 6237

12       Attorney at Law

13                               Of Attorneys for Plaintiff Heather Stoddard  
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